

### REMARKS

The present application included pending claims 1-27, all of which were rejected. By this Amendment, claims 1 and 10 have been amended, while claims 2, 3, 11, 12, and 15 have been canceled without prejudice or disclaimer.

The claim amendments should not necessitate any new ground(s) of rejection because claims 1 and 10 have merely been amended to recite the limitations of previously pending dependent claims. In particular, claim 1 has been amended to recite all the limitations of previously pending claim 3, while claim 10 has been amended to recite the limitations of previously pending claim 15.

Claims 1, 4, 6, 8-12, 16, 18, 19, and 23 stood rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6,129,671 ("Hastings"). Claims 24 and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 6,587,830 ("Singer"). Claims 2-3, 5, 7, 13-15, 17, 20-22, and 25-26 stood rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings in view of United States Patent No. 5,930,804 ("Yu"), United States Patent No. 6,260,021 ("Wong"), and United States Patent No. 5,315,999 ("Kinicki").

Because claim 1 has been amended to recite the limitations of previously pending claims 2 and 3, and claim 10 has been amended to recite the limitations of previously pending claims 11, 12, and 15, the Applicant submits that the rejections are now as follows: Claims 19 and 23 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hastings. Claims 24 and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Singer. Claims 1, 4-10, 13-14, 18, 20-22, and 24-26 stand rejected under 35 U.S.C.

103(a) as being unpatentable over Hastings in view of Yu, Wong, and Kinicki. The Applicant respectfully traverses these rejections for at least the following reasons:

**I. Hastings Does Not Anticipate Claims 19 And 23**

The Applicant first turns to the rejection of claims 19 and 23 as being anticipated by Hastings. Claim 19 recites, in part, “registering to use the medial imaging system, said registering comprising: (i) inputting a biometric identifier into a biometric authorization unit; (ii) inputting personal information into the medical imaging system; and (iii) associating biometric data extracted from the biometric identifier with the personal information.”

Hastings discloses an “ultrasound imaging system and ultrasound review station with a biophysical detector.” *See* Hastings at Abstract. To gain access to an ultrasound imaging system or review station, a user provides a biophysical input.

Once the biophysical input is detected (step 210), the biophysical input is transformed into a computer-usable form (step 220) and sent to the **recognition server** 120 for analysis (step 230). . . . The recognition server can use the reflections to form an image of the user’s fingerprint and can compare this image (or calculations based on this image) to those of authorized users. If the fingerprint is recognized (step 240), the biophysical detector 110 provides authorization information to the ultrasound imaging system or ultrasound review station to grant access to the user (step 260). If the fingerprint is not recognized, the user is denied access (step 250).

*Id.* at column 2, lines 24-39 (emphasis added). Hastings further describes the “recognition server” as follows:

For simplicity, the term “recognition server” is used in the specification and claims to broadly refer to the hardware and/or software components that are used to analyze a

signal representative of a user's biophysical attribute to determine whether the user is authorized to gain access to an ultrasound imaging system or ultrasound review station.

*Id.* at column 3, lines 6-11.

In short, Hastings discloses a system in which a biophysical input, such as a fingerprint, detected by a device is compared with stored biophysical inputs of authorized users within a database. Hastings does not describe, teach, or suggest "registering to use the medial imaging system, said registering comprising: (i) inputting a biometric identifier into a biometric authorization unit; (ii) inputting personal information into the medical imaging system; and (iii) **associating biometric data extracted from the biometric identifier with the personal information,**" as recited in claim 19. Nor has the Office Action attempted to point out where in Hastings such limitations are found. *See* February 21, 2007 Office Action at pages 2-3. Thus, for at least these reasons, the Applicant respectfully submits that the Office Action has not established a prima facie case of anticipation with respect to claims 19 and 23.

## **II. Singer Does Not Anticipate Claims 24 And 27**

The Applicant next turns to the rejection of claims 24 and 27 as being anticipated by Singer. Claim 24 recites, in part, "registering to use the audio/video equipment by inputting biometric data;... and enabling audio/video use of the audio/video equipment when biometric data input after said registering matches the stored biometric data."

Singer relates to "the medial office automation industry and more particularly to the field of forming medical records in the medical industry." Singer at column 1, lines 14-16. In particular, Singer discloses an "apparatus and method for forming a medical

record which does not require a separate transcriptionist for transcribing a dictated medical record.” *Id.* at column 2, lines 35-38. The apparatus and method of Singer “recognizes key medical words or terms in the free, unprompted, and unstructured dictation so that relationships can be made between the medical terms.” *Id.* at column 2, lines 50-55.

Singer also discloses a medical term matching means that includes “a knowledge database relating patient conditions with patient treatments of the conditions so that the knowledge base assists in further describing at least the actual condition and/or treatment of the patient by adding additional data, e.g., a more complete description, to a medical form which is or will be created.” *Id.* at column 3, lines 18-24.

Singer, in short, discloses an apparatus and method that “key[s] off of key medical terms used by a physician or other medial personnel such as in free, unprompted, and unstructured dictation...” in order to “provide freedom for the physician to talk, speak, and dictate according to the physician’s personal preferences, style, language, vocabulary, tone, and other desires when forming a medical record.” *Id.* at column 3, lines 48-54.

While Singer discloses “biometric identifiers,” Singer does not describe, teach, or suggest that such biometric identifiers are used with respect to “registering to use the audio/video equipment,” or “enabling audio/video use of the audio/video equipment when biometric data input after said registering matches the stored biometric data.” Instead, Singer discloses a system in which such identifier may be used to “reference

previous terms or patterns from previous dictations to the apparatus by the identified medical personnel,” as shown below:

The voice processing means 20 also can advantageously include speech term learning means, e.g., a speech learner 24 such as formed in software and/or hardware as understood by those skilled in the art, **for learning speech terms used by identified medical personnel and/or speech pattern learning means, e.g., a pattern learner 26 such as formed in software and/or hardware as understood by those skilled in the art, for learning speech patterns used by identified medical personnel.** To perform these functions, for example, **the apparatus 10 can also include biometric identifying means 27** connected to the voice processing means 20 for identifying biometric data from medical personnel to thereby reference previous terms or patterns from previous dictations to the apparatus by the identified medical personnel. As understood by those skilled in the art, the biometric identifying means is preferably a voice identification pattern, tone, or other voice identifier 27. Other biometric identifiers, however, such as fingerprint characteristics, eye characteristics, skin characteristics, body fluid characteristics, or other user characteristics can be used as well according to the present invention.

*Id.* at column 7, lines 3-23 (emphasis added). As shown above, Singer discloses “biometric identifying means,” but such means are only used “for learning speech terms used by identified medical personal and/or speech pattern learning means.”

Singer does not describe, teach, or suggest, however, “registering to use the audio/video equipment by inputting biometric data;... and enabling audio/video use of the audio/video equipment when biometric data input after said registering matches the stored biometric data,” such as recited in claim 24. Thus, for at least these reasons, the Office Action has not established a prima facie case of anticipation with respect to claims 24 and 27.

The Office Action also cites column 6, lines 8-34 of Singer as support for “wherein the audio/video equipment is one of a television, camera, CD player, DVD player, and car stereo.” This portion of Singer, however, states the following:

FIGS. 1-2 illustrate an apparatus 10 for forming and storing medical records 15 (see, e.g., FIG. 4) according to the present invention which preferably uses a combination of hardware elements and software programs and/or databases for forming the apparatus. The medical record forming and storing apparatus 10 preferably **includes voice inputting means, e.g., preferably provided by a voice recorder 12, for inputting the unprompted and unstructured free dictation of at least one medical personnel such as a physician, and voice processing means, e.g., preferably provided by a voice processor or voice data processor 20 such as one or more microprocessors, microcontrollers, digital processing devices or circuits, software processors, computer voice recognition software, or other data processors as understood by those skilled in the art, responsive to the voice inputting means 12 for processing the freely dictated voice from the voice inputting means 12 and generating voice data therefrom. As understood by those skilled in the art, the voice recorder 12, for example, can be any of various types of audio tape, digital media recorders, direct dictation into a software program, or other voice input devices such as produced by companies such as Dictaphone, Lanier, Pitney Bowes, IBM, Microsoft, Dragon Systems, or Kurzweil Applied Intelligence.** The voice processor 20 preferably includes at least one microprocessor having stored commands for processing data and/or other hardware and software as understood by those skilled in the art.

*Id.* at column 6, lines 8-34 (emphasis added). As shown above, the cited portion of Singer merely discloses examples of “voice recorders,” but does not describe, teach, or suggest a “television, camera, CD player, DVD player, and car stereo.” Thus, for at least this additional reason, the Office Action has not established a prima facie case of anticipation with respect to claim 27.

**III. The Proposed Combination Does Not Render Claims 1, 4-10, 13-14, 18, 20-22, And 24-26 Unpatentable**

The Applicant now turns to the rejection of claims 1, 4-10, 13-14, 18, 20-22, and 24-26 as being unpatentable over Hastings in view of Yu, Wong, and Kinicki. Claim 1 has been amended to recite “wherein biometric data extracted from the biometric identifier is compared with stored biometric data in said data storage unit, wherein the stored biometric data is associated with stored personal identification information, wherein the stored biometric data and the stored personal identification information are stored after an initial registration, and wherein user preference information is associated with the stored biometric data and with the personal identification information.” Claim 10 has been amended to recite “a central management station in communication with each of said plurality of medical imaging systems, wherein biometric data extracted from the biometric identifier is stored in at least one of a central data storage unit in said central management station and individual data storage units in said plurality of imaging systems, wherein personal identification information and user preference information is associated with the stored biometric data.” The Office Action acknowledges that Hastings does not teach or suggest these limitations. *See* February 21, 2007 Office Action at pages 5-6.

The Office Action cites column 10, lines 1-60 of Yu as disclosing “storing individual imaging preferences for the medical imaging system as user preference information and associating the user preference information....” *See id.* at page 7.

Yu, however, “relates to biometric authentication, particularly to systems and methods for biometric authentication of individuals involved in transactions **employing**

**the World Wide Web.”** *See* Yu at column 1, lines 5-8 (emphasis added). Yu does not teach or suggest “medical imaging” in general. Therefore, Yu does not overcome the deficiency of Hastings. That is, Yu does not teach or suggest “storing **individual imaging preferences for the medical imaging system as user preference information** and associating the user preference information....” Nor is there anything in column 10, lines 1-60 of Yu that is relevant to individual imaging preferences for a medical imaging system. *See* Yu at column 10, lines 1-60.

The Office Action also cites Kinicki as disclosing “storing individual imaging preferences for the medical imaging system as user preference information and associating the user preference information.” *See* February 21, 2007 Office Action at page 8. Claim 1 recites, however, “wherein user preference information is associated with the stored biometric data and with the personal identification information.” Kinicki does not teach or suggest associating user preference information with stored biometric data and personal identification information. Instead, Kinicki discloses a system that “can store a plurality of preset modes for different exam types, for different image displays, for different patients and for different users.” *See* Kinicki at column 3, lines 35-38. The preset modes are stored on the computer and a user selects them via an interface. *See id.* at column 6, lines 40-43 (“Initially, the operator selects an exam type and preset mode and adjusts the imaging parameter values to obtain a desired image on the display screen 14.”). While a user may configure personal preset modes, there is nothing in Kinicki that discloses that such personal preset modes are ever associated with biometric data.



None of Hastings, Yu, Wong, or Kinicki, alone or in combination with one another, teaches or suggests “wherein user preference information is associated with the stored biometric data and with the personal identification information,” as recited in claim 1, as amended, or “wherein personal identification information and user preference information is associated with the stored biometric data,” as recited in claim 10, as amended. Thus, for at least these reasons, the Office Action has not established a prima facie case of obviousness with respect to claims 1, 4-10, 13-14, 18, and 20-22.

Additionally, the Office Action has not established a prima facie case of obviousness with respect to claims 24-26 for at least the reasons discussed above with respect to Singer.

Nor has the Office Action shown where any of the references disclose “**allowing said registering step** by inputting a password,” as recited in claim 21. *See* February 21, 2007 Office Action at page 7. Thus, for at least this reason, the Office Action has not established a prima facie case of obviousness with respect to claim 21.

Further, the Office Action does not articulate a proper motivation to combine the references. In terms of a motivation to combine, the Office Action makes a blanket generalization that is intended to sweep in all of the recited limitations of claims 1, 4-10, 13-14, 19, 20-22, and 24-26.

Based on the above observations, for a person of ordinary skill in the art, modifying the system disclosed by Hastings, with the above discussed enhancements would have been considered obvious because such modifications would provide a safer and faster method to biometric authentication of individuals seeking access to medical image workstations.

See February 21, 2007 Office Action at page 8. The Office Action not address each separate claim. Instead, the Office Action merely makes an overly broad statement that there is a motivation to combine the **four** separate and distinct references to render the claims obvious because of the “above discussed enhancements.”

Merely identifying isolated elements in the prior art is not enough to establish a *prima facie* case of obviousness, as shown below:

[M]ere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. [*In re Rouffet*, 149 F. 3d 1350] at 1355, 1357 [(Fed. Cir. 1998)]. Rather, to establish a *prima facie* case of obviousness based on a combination of elements disclosed in the prior art, the Board must articulate the basis on which it concludes that it would have been obvious to make the claimed invention. *Id.* In practice, this **requires** that the Board “explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.” *Id.* at 1357-59. This entails consideration of both the “scope and content of the prior art” and “level of ordinary skill in the pertinent art” aspects of the Graham test.

**When the Board does not explain the motivation, or the suggestion or teaching, that would have led the skilled artisan at the time of the invention to the claimed combination as a whole, we infer that the Board used hindsight to conclude that the invention was obvious.** *Id.* at 1358.

See *in re Kahn*, 441 F.3d 977 (Fed. Cir. March 22, 2006) (emphasis added).

In this case, the Office Action attempts to show a motivation to combine through “enhancements” that are supposedly found in the references. The mere identification of “enhancements” to provide a motivation to combine, however, is not enough to establish a *prima facie* case of obviousness. In short, a *prima facie* case of obviousness cannot be

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established through unsupported broad statements regarding “enhancements,” and then jumping to the unsupported conclusion that such “enhancements” are obvious because of the benefits of such “enhancements.” Thus, for at least this additional reason, the Office Action has not established a *prima facie* case of obviousness with respect to claims 1, 4-10, 13-14, 19, 20-22, and 24-26.

### **III. Conclusion**

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should be come relevant by appearing in a rejection of any current or future claim).

The Applicant respectfully submits that the pending claims of the present application should be in condition for allowance for at least the reasons discussed above. If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited to contact the Applicant. The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account No. 07-0845.

Respectfully submitted,

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